

## REQUEST FOR COUNCIL ACTION

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MEETING

DATE: Feb 19, 2003

<b>AGENDA SECTION:</b> Consent	<b>ORIGINATING DEPT:</b> Park and Rec	<b>ITEM NO.</b> D-15
<b>ITEM DESCRIPTION:</b> Lease of Buckridge Park Property		<b>PREPARED BY:</b> D Stotz
<p>The 13 acre former gravel quarry site known as Buckridge Park was donated to the City in 1985. The area is undeveloped and presently inaccessible to the general public. There are no plans for immediate development of the property.</p> <p>The adjacent property owner, Dr. Heit, is pasturing horses on a small (3.0 acre) portion of the property. Prior to his fencing of the area, the neighborhood experienced lots of problems with dirt bikes, hunters etc on the property. Dr. Heit has leased the property from the City since 1993.</p> <p>The City Attorney has drafted a lease agreement that would allow Dr. Heit continued use of the property through 2008. A signed copy of the lease is attached for Council consideration as is a map indicating the location of the property.</p> <p><b>ACTION REQUESTED:</b> Approval of lease agreement for 5 year lease of City property known as Buckridge Park.</p>		

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## LEASE AGREEMENT

THIS AGREEMENT made and executed this \_\_\_\_ day of \_\_\_\_\_, 2003, by and between the **City of Rochester**, hereinafter called "Lessor", and **J. A. Heit**, hereinafter called "Lessee".

### WITNESSETH:

1. Lessor hereby leases to Lessee premises located within the following legally described property in Olmsted County, State of Minnesota:

That part of the Southeast Quarter of the Northwest Quarter of Section 12, Township 107 North, Range 14 West, Olmsted County, Minnesota, lying westerly of the Zumbro River (see Exhibit A attached hereto for reference).

2. The term of this lease shall be for a period of five (5) years from January 31, 2003, to January 31, 2008. This lease may not be assigned by Lessee and does not run with the land.

3. The annual rent shall be in the amount of \$50.00 per year, payment being made on or before January 31st of each year for the following one-year period.

4. Lessor shall pay all taxes due and/or payable during the term of this lease, if any.

5. Except as hereinafter provided, Lessee shall not make any alterations, improvements or repairs of any kind on or about said premises without the approval of the Lessor. Lessee may, at his own expense, fence the property in such a manner that it may be used for horse pasturing purposes. Lessee shall be responsible for the maintenance of any fence so constructed and shall be allowed to remove the fence at the termination of the lease. Any other improvements constructed on this property without Lessor's prior approval shall become the possession of Lessor at the termination of this lease.

6. Said leased premises shall be used only for horse pasturing purposes.

7. Lessee may post "No Hunting" and "No Trespassing" signs if he wishes.

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8. This lease agreement may be terminated by the Lessor for cause upon 30 days notice, and without cause on 90 days notice. Lessee is entitled to a pro rata reimbursement of rental payments if the termination is without cause. No such reimbursement shall be made if the termination is for cause. Termination shall be for cause if Lessee violates any of the terms and conditions of any part of this Agreement.

9. Lessee may terminate this lease agreement with or without cause upon 30 days notice to Lessor. Lessee is not entitled to a reimbursement of rental payments if termination is without cause.

10. Lessee agrees to save and hold harmless Lessor and its officers, employees and agents from all claims, suits, or actions of whatsoever nature resulting from or arising out of Lessee's use of this property. Lessee also agrees to defend, indemnify, and hold harmless Lessor its officers, agents, and employees from all claims that arise from Lessee's actions, or failure to act, in connection with his use of this property.

11. This lease constitutes the entire agreement between the parties. No waiver, consent, modification, or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.

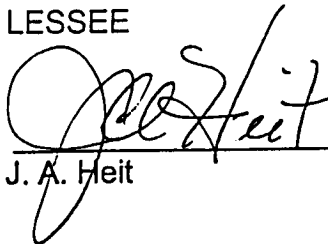
IN WITNESS WHEREOF, the parties of this Agreement have duly executed the same as of the date and year first above written.

CITY OF ROCHESTER, LESSOR

By: \_\_\_\_\_  
Its Mayor

Attest: \_\_\_\_\_  
Its City Clerk

38.  
LESSEE

  
J. A. Heit

STATE OF MINNESOTA)  
 ) SS  
COUNTY OF OLMSTED )

The foregoing instrument was acknowledged before me this \_\_\_\_ day  
of \_\_\_\_\_, 2003, by Ardelle F. Brede and Judy K. Scherr, the Mayor and City Clerk  
respectively of the City of Rochester.

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF MINNESOTA)  
 ) SS  
COUNTY OF OLMSTED )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2003, by J. A. Heit, for and on his own behalf.

\_\_\_\_\_  
NOTARY PUBLIC

THIS INSTRUMENT WAS DRAFTED BY  
Office of the City Attorney  
201 4th Street SE - Room 247  
Rochester, MN 55904  
Lease\heit.2003.doc

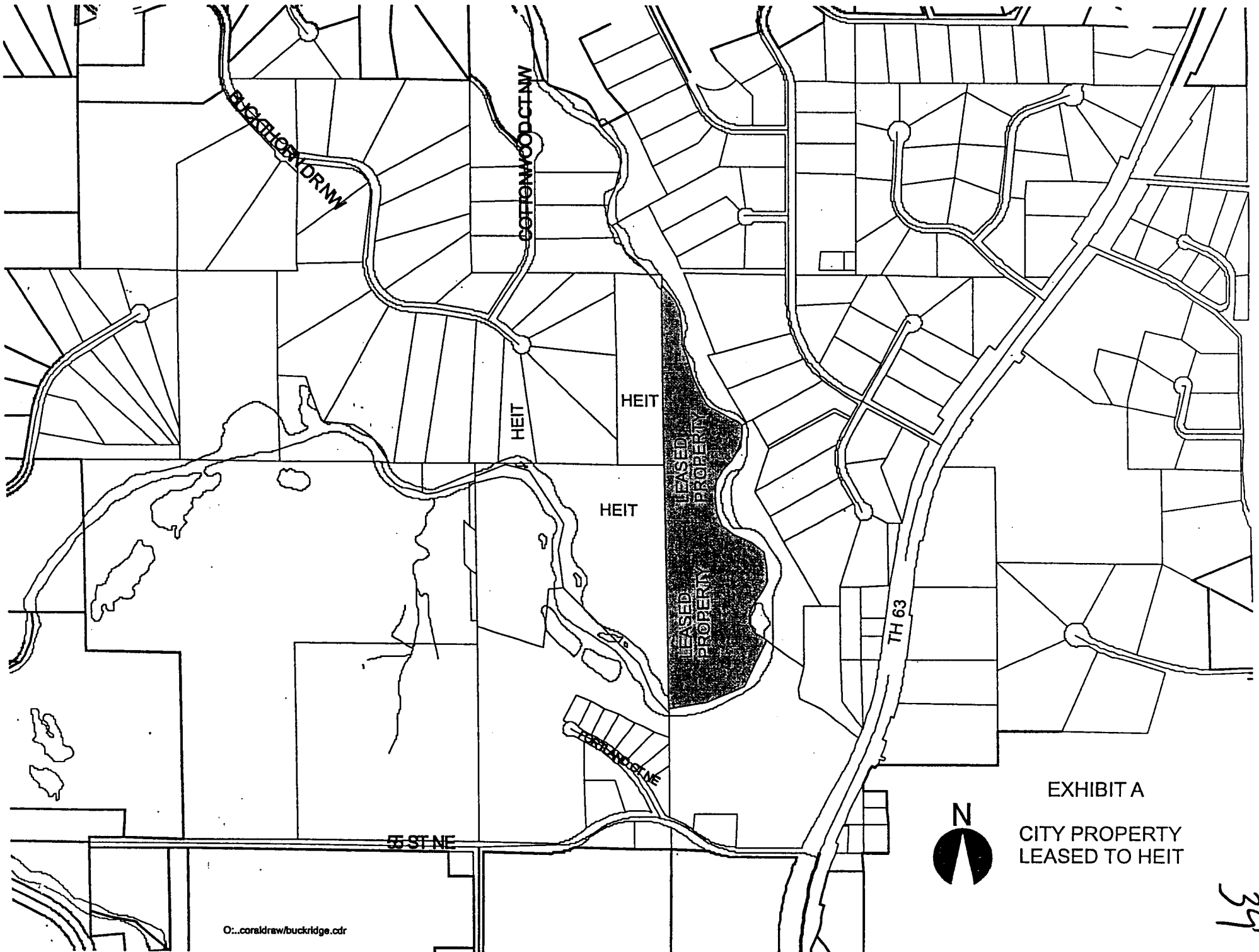


EXHIBIT A  
CITY PROPERTY  
LEASED TO HEIT

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